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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,314

02/24/2004

Darko Pervan

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

LAUX, JESSICA L

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

02/28/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No.	Applicant(s)	
	10/708,314	PERVAN, DARKO	
	Examiner	Art Unit	
	Jessica Laux	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/10/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgment is made of the RCE filed 12/03/2007. Accordingly the application has been amended.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Sweden on 02/24/2003. It is noted, however, that applicant has not filed a certified copy of the 0300479-3 application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

The information disclosure statement filed 01/10/2008 does not include a concise explanation of the relevance of the US Patent Applications listed under NON-PATENT LITERATURE. It is unclear why these applications are listed rather than the corresponding Publication. Without an understanding or explanation regarding the relevance of these applications or why they are listed under the NPL heading these references will not be considered. Also it is deemed that NPL is not the proper place to list applications. If they are related applications then they should be listed in the specification. If they are for disclosure only, then any associated publication should be identified under the appropriate heading.

Accordingly the information disclosure statement has been placed in the application file, but the information referred to, under the head NON-PATENT LITERATURE therein has not been considered as to the merits. Applicant is advised

that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Response to Arguments

Applicant's arguments with respect to claims 1, 10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-7, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlberg et al (3120083) as referenced with Thiers et al (20030033777) or Gay (3247638).

Regarding claims 1 and 10: Dahlberg discloses floorboards comprising a surface layer (11) and a core (14), for making a floating flooring, which floor are mechanical lockable;

wherein each floor board has an edge and an engageable edge,

wherein the edge is lockable to the engageable edge on a similar, adjoining floorboard,

wherein the edge and engageable edge comprise a pair of connectors for locking the edge and engageable edge to each other vertically (Col. 1, lines 15-22; Col. 2, lines 32-36; and figure 3, and

wherein the surface layer comprises flexible resilient fibers (pile fabric; Col. 2, lines 62-63).

Dahlberg does not disclose a mechanical locking system that engages the edges both vertically and in a direction perpendicular to the edge.

However, it is notoriously common and well known to have floorboards with edge connectors that lock in a vertical direction and in a direction perpendicular to the edge (reference US Patent 3247638 and US PG Publication 20030033777). It would have been obvious to one of ordinary skill in the art to modify the edge of Dahlberg to have the claimed locking system (vertical and perpendicular locking) as such a modification would provide for a secure connection less likely to separate during installation and while subject to the stresses of being used as a flooring. Further it is noted that it would have been obvious to one of ordinary skill in the art to substitute one known connection system for another when the substitution yields predictable results (in the instant case the predictable result of at least a stronger connection).

Regarding claim 2: Floorboards as claimed in claim 1, wherein the core of the floorboard contains wood fibers (Dahlberg - Col. 3, lines 2-3).

Regarding claim 3: Dahlberg discloses the floorboards as claimed in claim 1 above, but does not expressly disclose that the surface layer is made of needle felt. Instead Dahlberg discloses a pile carpet. However, it is well known in the industry to use needle felt for carpet pile, furthermore applicant has not disclosed that using a needle felt, rather than any other type of carpet, provides an advantage or solves a problem. Applicant also discloses in paragraph [0022] that any fiber-based surface is acceptable. Therefore it is an obvious matter of design choice to use needle felt as the surface as one of ordinary skill in the art would know to do. Therefore this feature does not patentably distinguish over the prior art of Dahlberg.

Regarding claim 4: Dahlberg discloses floorboards as claimed in claim 1 above, but does not disclose that the surface layer has a density below 400 kg/m³. However, Dahlberg discloses that the surface layer is a carpet, which is equivalent to the claimed surface layer and therefore has a density below 400 kg/m³ thereby significantly lowering the sound level.

Regarding claim 5: Floorboards as claimed in claim 1, wherein the floorboards are rectangular or square (Dahlberg - figure 3) and that two opposite sides can be joined by inward angling, whereby upper adjoining joint edge portions are in contact with each other (Dahlberg - Col. 4, lines 36-45; where the tiles can be joined by sliding the tiles together by inward angling and the upper edges are in contact).

Regarding claim 6: Floorboards as claimed in claim 5, wherein the upper adjoining joint edge portions of the floorboards are compressible and can be changed in

shape in connection with joining (where the upper surface is a pile carpet which is compressible).

Regarding claim 7: Floorboards as claimed in claim 1, wherein the surface layer consists of flexible resilient fibers (Dahlberg - Col. 2, lines 62-63).

Regarding claims 11-12: The floorboard as claimed in claim 10, wherein a second pair of opposing edge portions has pairs of opposing connectors for locking said floorboard to a similar, adjoining floorboard vertically and/or horizontally (Dahlberg - Col. 1, lines 15-22; Col. 2, lines 32-36; and figure 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Thursday, 9:00am to 5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633

/J. L./
Examiner, Art Unit 3635
02/05/2008